IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.496 OF 2006

In

NOTICE OF MOTION NO.1195 OF 2006

In

SUIT NO.4216 OF 1994

M.D.Choksey Construction Company
Private Limited & Ors. : Appellants
(Orig.Defendants)

V/s.

Babubhai Mohanlal Choksey : Respondent
(Orig. Plaintiff)

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Mr.V.A.Thorat, Senior Counsel, with Mr.A. Narula and Mr.V. Sughdhare i/b. M/s.Jhangiani Narula & Associates for the appellants.

Mr.D.D.Madon with Mr.Z.A.Jariwala i/b. M/s.Thakore Jariwala & Associates for the respondent.

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CORAM : R.M.LODHA & S.A.BOBDE,JJ.

DATE : AUGUST 28, 2006.

P.C.

1. Heard.

2. In the light of the submissions made before us and the broad consensus that emerged during the course of arguments, we dispose of the appeal by the following order:-

O R D E R

(i) The following sentence and word from para 5 of the impugned order shall stand deleted:-

> "In my view, there is a clear breach of the order dated 30th April 1998. Hence,"

(ii) Para 5 of the impugned order shall read thus:-

> The Defendants shall remove all boards except that of Sharma Builders and/or Defendant No.1, within a period of a week from today, subject to the final order in the Notice of Motion.

3. We record the statement of Mr.V.A.Thorat, Senior Counsel for the appellants (original defendants) that all boards, except that of Sharma Builders and/or defendant No.1 have already been removed in compliance with the

ad-interim order dated 3.5.2006.

4. All contentions of the parties are left open to be agitated in support and in opposition to the Notice of Motion.

5. Appeal is disposed of accordingly.

R.M. LODHA, J.

S.A. BOBDE, J.